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Implementation of the resolution on the Middle East adopted by the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

Background paper prepared by the United Nations Secretariat

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Resolution on the Middle East

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I. Introduction

1. At its third session (May 2009), the Preparatory Committee for the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons invited the Secretary-General to prepare for the Conference a background paper on the implementation of the resolution on the Middle East adopted by the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, with a view to realizing the aims and objectives of the resolution.

2. The Preparatory Committee stated that the following general approach should apply to the proposed paper (similar to the approach applied for the preparation of background documentation for the previous review conferences): the paper must present balanced, objective and factual descriptions of the relevant developments, be as short as possible and be easily readable. It should reflect agreements reached, actual unilateral and multilateral measures taken, understandings adopted, formal proposals for agreements made and important political developments directly related to any of the foregoing. The paper should focus on the period since the 2005 Review Conference, including implementation of the decisions and the resolution adopted by the 1995 Review and Extension Conference and the Final Document of the 2000 Review Conference.

3. The present paper is submitted pursuant to that request. Attention is also drawn to the background paper prepared by the International Atomic Energy Agency (IAEA) regarding its activities relevant to the implementation of the Treaty.[1]

II. Resolution on the Middle East adopted by the 1995 Review and Extension Conference

4. On 11 May 1995, the Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons adopted the resolution on the Middle East, sponsored by the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America as depositaries of the Treaty on the Non-Proliferation of Nuclear Weapons. In the resolution the Conference inter alia endorsed the aims and objectives of the peace process and recognized that efforts in this regard, as well as other efforts, contribute to a Middle East free of nuclear weapons as well as other weapons of mass destruction. Furthermore, it called on States in the region not parties to the Treaty to accede to the Treaty and accept full-scope IAEA safeguards, and urged nuclear- and non-nuclear-weapon States to fully cooperate with regional efforts to create a zone in the Middle East free of nuclear and all other weapons of mass destruction. The text of the resolution is contained in the annex to this paper.

[1] NPT/CONF.2010/16

III. Review of the implementation of the resolution on the Middle East

A. Efforts contributing to the achievement of the aims and objectives of the Middle East peace process

5. By paragraph 1 of the resolution on the Middle East, the Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons endorsed the aims and objectives of the Middle East peace process and recognized that efforts in this regard, as well as other efforts, contribute to, inter alia, a Middle East zone free of nuclear weapons as well as other weapons of mass destruction. This was reaffirmed in the Final Document of the 2000 Review Conference.[2]

6. Observations on the current state of the Israeli-Palestinian conflict and on international efforts to move the peace process forward with a view to achieving a peaceful settlement can be found in the reports of the Secretary-General on the peaceful settlement of the question of Palestine, contained in documents A/60/539-S/2005/701, which covers the period from September 2004 to September 2005; A/61/355-S/2006/748, which covers the period from September 2005 to September 2006; A/62/344-S/2007/553, which covers the period from September 2006 to September 2007; A/63/368-S/2008/612, which covers the period from September 2007 to August 2008; and A/64/351-S/2009/464, which covers the period from September 2008 to August 2009.

B. Acceptance of full-scope International Atomic Energy Agency safeguards on all nuclear activities

7. As stipulated in paragraphs 3 and 4 of the resolution on the Middle East and in the decision on principles and objectives for nuclear non-proliferation and disarmament,[1] all States of the Middle East that have not yet done so should place their nuclear facilities under comprehensive IAEA safeguards.

8. The United Nations General Assembly, in numerous resolutions on the subject of the establishment of a nuclear-weapon-free zone in the Middle East[3] as well as on the subject of the risk of nuclear proliferation in the Middle East,[4] has called upon all States in the Middle East that have not yet done so to place all their nuclear activities under full-scope IAEA safeguards.

9. In the consensus document adopted by the 2000 Review Conference,[2] all parties directly concerned were urged to consider seriously taking the practical and urgent steps required for the implementation of the proposal to establish a nuclear-weapon-free zone in the region of the Middle East in accordance with the relevant resolutions of the General Assembly and, as a means of promoting this objective, the States concerned were invited to adhere to the Non-Proliferation Treaty and, pending the establishment of such a zone, to agree to place all their nuclear activities under IAEA safeguards.

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[1] NPT/CONF.2000/28 (Parts I and II).

[2] NPT/CONF.1995/32 (Part I), annex, decision 2.

[3] For example, resolution 3263 (XXIX).

[4] For example, resolution 49/78.

10. The General Conference of IAEA in a series of resolutions on the application of IAEA safeguards in the Middle East[6] has reaffirmed the urgent need for all States in the Middle East forthwith to accept the application of full-scope Agency safeguards on all their nuclear activities as an important confidence-building measure among all States in the region and as a step in enhancing peace and security in the context of the establishment of a nuclear-weapon-free zone. The General Conference has also called upon all parties directly concerned to consider seriously taking the practical and appropriate steps required for the implementation of the proposal to establish a mutually and effectively verifiable nuclear-weapon-free zone in the region. The General Conference has also invited the States concerned to adhere to international non-proliferation regimes, including the Non-Proliferation Treaty, as a means of complementing participation in a zone free of all weapons of mass destruction in the Middle East and of strengthening peace and security in the region. Details of the steps taken towards the implementation of the General Conference resolutions are given in the IAEA background paper on the Agency's activities relevant to implementation of the Treaty.

11. Since the 2005 Review Conference, all States of the Middle East region (as defined by IAEA)[7] except Djibouti, Israel and Somalia have accepted comprehensive Agency safeguards. Six States have brought into force comprehensive Agency safeguards since 2005. Djibouti has had its comprehensive safeguards agreement approved by the Board of Governors but has not yet signed. Somalia has yet to submit a comprehensive safeguards agreement to the Board of Governors for its consideration.

12. Since 2005 three States in the region have brought into force the Additional Protocol. Three Additional Protocols are in force in five States of the region (the Comoros, Jordan, Kuwait, the Libyan Arab Jamahiriya and Mauritania). Six States (the Islamic Republic of Iran, Iraq, Morocco, Tunisia and the United Arab Emirates) have signed but not yet brought their Additional Protocol into force. As at 17 February 2010, the Additional Protocol is being applied provisionally in Iraq, pending its entry into force. The Board of Governors has approved Additional Protocols for three States (Algeria, Bahrain and Djibouti), which have not yet signed.

13. Of the States with comprehensive safeguards agreements in force, 10 States (Bahrain, the Comoros, Kuwait, Lebanon, Mauritania, Oman, Qatar, Saudi Arabia, the Sudan and the United Arab Emirates) implement the Small Quantities Protocol with the Agency. Of these, four States (Bahrain, the Comoros, Lebanon and Qatar) implement the modified standard Protocol, which was approved by the Board of Governors on 20 September 2005. Morocco rescinded its Small Quantities Protocol on 15 December 2009.

14. Israel has an IAEA INFCIRC/66/Rev.2 safeguards agreement in force for one of its two research reactors but does not have a comprehensive safeguards agreement with IAEA. In September 2009 the IAEA General Conference adopted

[6] For example, resolution GC(XXXV)/RES/571.

[7] IAEA considers the Middle East to include Algeria, Bahrain, the Comoros, Djibouti, Egypt, the Islamic Republic of Iran, Israel, Jordan, Kuwait, Lebanon, the Libyan Arab Jamahiriya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, the Sudan, the Syrian Arab Republic, Tunisia, the United Arab Emirates and Yemen (IAEA document GC(XXXIII)/887, para. 3).

resolution GC(53)/RES/17 on Israeli nuclear capabilities. In the resolution, which was adopted by 49 votes to 45, with 16 abstentions, the General Conference expressed concern about the Israeli nuclear capabilities, and called upon Israel to accede to the Non-Proliferation Treaty and place all its nuclear facilities under comprehensive IAEA safeguards.

C. Realization of universal adherence to the Treaty

19. Under the resolution on the Middle East and the decision on principles and objectives for nuclear non-proliferation and disarmament, all States not yet parties to the Non-Proliferation Treaty are called upon to accede to the Treaty in the earliest date, particularly those States that operate unsafeguarded nuclear facilities. Every effort should be made by all States parties to achieve this objective.* All States in the region of the Middle East, with the exception of Israel, are States parties to the Non-Proliferation Treaty. A total of 190 States have joined the Treaty, including the accession of one additional State since the 2005 Review Conference.

D. Efforts contributing to a Middle East zone free of nuclear weapons as well as other weapons of mass destruction, nuclear, chemical and biological, and their delivery systems

20. The idea of establishing a nuclear-weapon-free zone in the Middle East dates back to the 1970s and was first formally raised by the Islamic Republic of Iran and Egypt. Since then, all the States of the region have expressed support for such a zone, including in the United Nations where a resolution on the subject has been adopted annually by consensus in the General Assembly since 1980. The IAEA General Conference resolution on the application of IAEA safeguards in the Middle East was also adopted annually by consensus for 14 years. Despite the widespread support for the concept, little progress has been achieved towards the establishment and implementation of such a zone.

21. Discussions within and outside the United Nations have revealed differences of view regarding how best to advance the concept of a Middle East nuclear-weapon-free zone and on preferred approaches to its establishment. Israel and the Arab States emphasize differently the importance of undergoing the negotiating process versus achieving a political end result. Israel believes that the main objective is regional peace and security and that political contacts in the Middle East mandate a gradual negotiation process based on a step-by-step approach, with the establishment of peaceful relations, reconciliation, mutual recognition and good neighbourliness and complemented by conventional and non-conventional arms control measures.* Arab States have focused on achieving the end result of establishing such a zone through Israel's immediate accession to the Non-Proliferation Treaty and submitting its nuclear activities to full-scope IAEA safeguards. The Arab States and the Islamic Republic of Iran believe that there should not be a linkage

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* NPT/CONF.1995/32 (Part I), annex, document 2, para. 5.

Statement by Shaul Chorev, Director-General of the Israel Atomic Energy Commission, to the 53rd General Conference of the International Atomic Energy Agency, September 2009.

between the peace process and the establishment of a nuclear-weapon-free zone and that the negotiations for each should be pursued in parallel.[17]

18. There are also different opinions on the role of international versus regional organizations on verification of such a zone. For example, Israel envisions an intrusive and comprehensive verification regime, with a dedicated regional organization, that goes much further than is currently mandated under the Additional Protocol agreed with IAEA.[18] The Arab States and the Islamic Republic of Iran see IAEA as the appropriate body to verify a zone.[19] Both sides nevertheless support the expansion of a zone to include all weapons of mass destruction — nuclear, biological and chemical — as well as their delivery systems.[20]

19. In October 2005, on the tenth anniversary of the Declaration of the Barcelona Process, the participating States adopted a text in which they welcomed the inclusion of non-proliferation of weapons of mass destruction clauses in its latest agreements and action plans, and pointed out that such measures must be implemented by all the partner countries without exception with a view to declaring the Mediterranean a weapons of mass destruction-free area.[21]

20. In December 2007, the Secretary-General of the Gulf Cooperation Council publicly announced an initiative to declare the Persian Gulf a weapons of mass destruction-free zone. In its initial stages, the agreement would include only the nine States situated in the subregion — the six States of the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates) and the Islamic Republic of Iran, Iraq and Yemen. Once established, the regime would eventually be opened for other States in the region to join and would therefore complement a future weapons of mass destruction-free zone in the Middle East.

21. In February 2008, the IAEA Board of Governors recognized that a solution to the Iranian issue would contribute to global non-proliferation efforts and to realizing the objective of a Middle East free of weapons of mass destruction, including their means of delivery.[22] The Security Council modified this in resolutions 1747 (2007) and 1803 (2008).

22. For the first time in 10 years, in September 2008, the General Conference resolution on the application of IAEA safeguards in the Middle East was adopted by a vote, rather than by consensus, receiving 89 votes in favour to 7 against (Israel and the United States, with 3 abstentions).[23] Israel stated that it will continue to support the idea of a Middle East free of weapons of mass destruction.[24] Under this agenda item the IAEA General Conference had in 2000 adopted a decision in which the Director General was requested to convene a forum in which participants from the Middle East and other interested parties could learn from the experiences of other regions, including in the area of confidence-building relevant to the peaceful uses of

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[17] See Israel (CD/PV.1).

[18] See Israel (CD/PV.1) and Israel (NPT/CONF.2010/PC.III/WP.40).

[19] Arab States (NPT/CONF.2010/PC.III/WP.7).

[20] See Arab States (CD/PV.1) and Islamic Republic of Iran (CD/PV.1).

[21] Conclusions of the Euro-Mediterranean Conference, para. 10.

[22] Resolution GOV/2008/38.

[23] Resolution GC(52)/RES/DEC(8).

[24] Statement by Shaul Chorev, Director General of the Israel Atomic Energy Commission, to the 52nd General Conference of the International Atomic Energy Agency, September 2008.

a nuclear-weapon-free zone.[*] Although terms of reference for the forum were agreed in 2004, so far IAEA has been unable to convene the forum. According to a report of the Agency in 2009, "it is evident that a convergence of views is developing on convening the forum, but consensus still remains elusive regarding the agenda that a forum would need to address".[*]

21. In March 2007, during the ministerial meeting of the Arab League in Riyadh, Arab leaders adopted a resolution to convene an extraordinary ministerial-level meeting of the Council of the League of Arab States, preceded by a meeting of a committee of senior Arab officials, to recommend a relevant policy and practical mechanism to rid the Middle East of weapons of mass destruction. In November 2007, the Minister for Foreign Affairs of Saudi Arabia put forward an initiative of the Gulf Cooperation Council to establish a joint enrichment centre based in a country outside the region to supply nuclear fuel to civilian reactors in the Middle East. The initiative also called a proposal to establish a regional fuel bank for all States in the Middle East that are interested in nuclear energy.[*]

22. In 2007, the Regional Network of Strategic Studies Centres formed a working group focusing on arms control, non-proliferation, border security and the establishment of a Middle East free of weapons of mass destruction. On 19 June 2008 the European Union Institute for Security Studies organized in Paris a seminar on the theme "Middle East Security and Weapons of Mass Destruction Non-Proliferation Disarmament". On 17 July 2008 France hosted a high-level summit meeting to review the Barcelona Process.[*] The Joint Declaration issued at the close of the meeting included a commitment to pursue a weapons of mass destruction-free zone in the Middle East. The declaration included a clause noting that "the parties shall pursue a mutually and effectively verifiable Middle East zone free of weapons of mass destruction, nuclear, chemical and biological, and their delivery systems".[*]

23. On the basis of its 2007 decisions, the League of Arab States submitted working papers to the Preparatory Committee for the 2010 Review Conference of the parties[*] and them[*] sessions, in which it called for the adoption of measures to promote the implementation of the 1995 resolution on the Middle East. Suggested measures included the allocation of a specific period of time during the meetings of the Preparatory Committee to consider the implementation of the resolution, the establishment of a subsidiary body of the committee II of the 2010 Review Conference to consider proposals relating to the implementation of the resolution, and the establishment of a standing committee to follow up the implementation of the recommendations, in particular the prompt accession by Israel to the Non-Proliferation Treaty and the placement of all its nuclear facilities under comprehensive IAEA safeguards. The working papers called also for a number of interim steps to implement the resolution on the Middle East, such as an international meeting convened by the United Nations, and a call for nuclear-weapon and non-nuclear-weapon States not to transfer nuclear-weapon-related

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equipment, information, material, facilities, resources or devices, or extend any assistance to Israel in the nuclear field, whether for peaceful or for military purposes. The League of Arab States at its Summit in Doha in 2009 adopted a resolution urging Ministers for Foreign Affairs of Arab States to define common positions and policies, including possible actions by the Arab States. The resolution also proposed addressing the outcome of the 2010 Review Conference and other international developments towards a weapons of mass destruction-free zone in follow-on submissions to the 2011 Summit.

26. At the third session of the Preparatory Committee for the 2010 Review Conference the Russian Federation proposed holding an international conference involving all parties concerned to consider the prospects for implementation of the 1995 resolution on the Middle East and the appointment of a special coordinator authorized to hold consultations and report to the States parties to the Non-Proliferation Treaty.

27. Recognizing "the growing interest in nuclear energy among States parties in the Middle East, Bahrain, Saudi Arabia and the United Arab Emirates have indicated their intention to renounce the acquisition of sensitive nuclear fuel-cycle technologies such as uranium enrichment and plutonium separation." Specifically, the United Arab Emirates adopted a decree that includes a prohibition on the development, construction or operation of uranium enrichment or spent fuel reprocessing facilities within its borders.[1]

28. In addition, since 2007 two high-level independent international commissions have addressed the issue of a nuclear-weapon-free zone in the Middle East — the Weapons of Mass Destruction Commission, chaired by Hans Blix and the International Commission on Nuclear Non-Proliferation and Disarmament, chaired by Gareth Evans and Yoriko Kawaguchi. The Weapons of Mass Destruction Commission recommended that all States should support continued efforts to establish a zone free of weapons of mass destruction in the Middle East as a part of the overall peace process.[2] The Commission proposed that, as a confidence-building measure, all States in the region should commit themselves to a verified arrangement not to have any enrichment, reprocessing or other sensitive fuel-cycle activities on their territories for a prolonged period of time. It was envisaged that such a commitment would be coupled with reliable assurances about fuel-cycle services required for peaceful nuclear activities. In its report of December 2009,[3] the International Commission on Nuclear Non-Proliferation and Disarmament recommended the Secretary-General's convening of a conference to address ways and means to implement the 1995 resolution on the Middle East, including the identification of confidence-building measures that all key States in the region could embrace, with early consultations — drawing explicitly on the experience of other nuclear-weapon-free zones — to facilitate that. The International Commission also proposed that a Special Representative should be appointed to guide these efforts.

[1] United Arab Emirates, Federal Law No. 6 of 2009 regarding the Peaceful Uses of Nuclear Energy.

[2] Weapons of Mass Destruction Commission, Weapons of Terror: Freeing the World of Nuclear, Biological and Chemical Arms (2006).

[3] International Commission on Nuclear Non-Proliferation and Disarmament, Nuclear Threats: Countering Global Instability in the Twenty-first Century (2009).

Annex

Resolution on the Middle East

The Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,

Reaffirming the purpose and provisions of the Treaty on the Non-Proliferation of Nuclear Weapons,

Recognizing that, pursuant to article VII of the Treaty, the establishment of nuclear-weapon-free zones contributes to strengthening the international non-proliferation regime,

Recalling that the Security Council, in its statement of 31 January 1992, affirmed that the proliferation of nuclear and all other weapons of mass destruction constituted a threat to international peace and security,

Recalling also General Assembly resolutions adopted by consensus supporting the establishment of a nuclear-weapon-free zone in the Middle East, the latest of which is resolution 49/71 of 15 December 1994,

Recalling further the relevant resolutions adopted by the General Conference of the International Atomic Energy Agency concerning the application of Agency safeguards in the Middle East, the latest of which is GC(XXXVIII)/RES/21 of 25 September 1994, and noting the danger of nuclear proliferation, especially in areas of tension,

Bearing in mind Security Council resolution 687 (1991) and in particular paragraph 14 thereof,

Noting Security Council resolution 984 (1995) and paragraph 8 of the decision on principles and objectives for nuclear non-proliferation and disarmament adopted by the Conference on 11 May 1995,

Bearing in mind the other decisions adopted by the Conference on 11 May 1995,

1. *Endorses* the aims and objectives of the Middle East peace process and recognizes that efforts in this regard, as well as other efforts, contribute to the achievement of a Middle East zone free of nuclear weapons and all other weapons of mass destruction;

2. *Notes with satisfaction* that, in its report (NPT/CONF.1995/32 (Part I), Main Committee III of the Conference recommended that the Conference "call on those remaining States not parties to the Treaty to accede to it promptly, accepting as international legally binding commitments not to acquire nuclear weapons or nuclear explosive devices and to accept International Atomic Energy Agency safeguards on all their nuclear activities";

3. *Notes with concern* the continued existence in the Middle East of unsafeguarded nuclear facilities, and reaffirms in this connection the recommendations contained in section VII, paragraph 7, of the report of Main Committee III urging those non-parties to the Treaty on the Non-Proliferation of

Nuclear Weapons that operate unsafeguarded nuclear facilities to accept full-scope International Atomic Energy Agency safeguards;

8. *Reaffirms* the importance of the early realization of universal adherence to the Treaty, and calls upon all States of the Middle East that have not yet done so, without exception, to accede to the Treaty as soon as possible and to place their nuclear facilities under full-scope International Atomic Energy Agency safeguards;

9. *Calls upon* all States in the Middle East to take practical steps in appropriate forums aimed at making progress towards, inter alia, the establishment of an effectively verifiable Middle East zone free of weapons of mass destruction, nuclear, chemical and biological, and their delivery systems, and to refrain from taking any measures that preclude the achievement of this objective;

10. *Calls upon* all States parties to the Treaty on the Non-Proliferation of Nuclear Weapons, and in particular the nuclear-weapon States, to extend their cooperation and to exert their utmost efforts with a view to ensuring the early establishment by regional parties of a Middle East zone free of nuclear and all other weapons of mass destruction and their delivery systems;